



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

October 17, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

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Third District

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RESPONSE TO SEPTEMBER 24, 2013 REQUEST FOR A REPORT ON INTER-DEPARTMENTAL COMMUNICATION

This is in response to Supervisor Antonovich's request, made at the Board meeting of September 24, 2013, for a report about communication issues between the Department of Mental Health (DMH) and the Department of Children and Family Services (DCFS). The request arose from discussion with the Director of Mental Health about representations made by department presenters at the Blue Ribbon Commission (BRC) on Child Protection, held on September 23, 2013, concerning difficulty in sharing the health information of clients served by the departments.

In preparation for this response, Chief Executive Office (CEO) staff watched a video recording of the entire BRC meeting held on September 23, 2013, to obtain a clear understanding of the precise communication issues raised. In addition, CEO staff contacted the BRC meeting presenters who raised the communication issues, reviewed communication protocols and documentation, and conferred with the affected departments and County Counsel to clarify issues and determine appropriate actions.

COMMUNICATION CONCERNS

Two presenters at the September 23, 2013 BRC meeting raised concerns about communication issues between departments. In both of the following cases, the issues relate to "legal barriers" attributed by the presenters to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA addresses individuals' health information privacy rights and the use and disclosure of protected health information by organizations subject to the Act.

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- The Department of Public Health (DPH) presenter, from the department's Maternal, Child, and Adolescent programs, shared her feeling that HIPAA is a barrier to sharing specific information across departments. She described a project started in 1998 that resulted in recommendations about a public education program to raise community awareness of signs and symptoms of child abuse. However, the DPH presenter stated that while the recommendations addressed community education, one issue they did not address were County policies related to HIPAA that inhibited sharing information about the involved families across different programs.
- A presenter from the Department of Health Services' (DHS) medical hubs indicated that DMH's electronic health records have not been linked into the DHS medical hubs' health information system. The DHS presenter attributed the reason for this lack of linkage to legal barriers, stating that County Counsel has stated there are serious barriers to the exchange of information.

No representative from DCFS spoke at the BRC meeting, and no assertions were made by speakers at the meeting about communication barriers or a lack of information sharing specifically between DMH and DCFS. The departments have taken extraordinary measures with respect to information sharing, including the use of data matching protocols to share appropriate mental health care information for children with open DCFS cases. Indeed, the Katie A. Advisory Panel praised DMH's and DCFS's information sharing initiative when reporting on the County's Katie A. court settlement. The panel's May 16, 2012 report to the court stated, "The Panel considers this initiative to be an important innovation and commends the county for its initiative and creative problem solving."

CONFIDENTIALITY LAWS AND INFORMATION SHARING

There are various confidentiality laws that apply to information held by DCFS, DMH, DHS, and DPH. To facilitate the sharing of needed information by these departments, County Counsel and the departments have worked together on a number of strategies including: (1) ensuring a proper understanding of confidentiality law prohibitions and focusing on what the laws permit to be shared; (2) overcoming non-existent barriers to information sharing perceived by departmental staff and by contractors by providing education, establishing work groups, developing protocols, forms, and memoranda of understanding; (3) seeking statutory changes when necessary; (4) seeking individual court orders when necessary; and (5) establishing a process to obtain written permission from patients or their guardians when necessary.

County Counsel and the County's Chief HIPAA Compliance Officer have provided extensive training and education programs to departments about HIPAA requirements and obligations, and impacted County employees working for a HIPAA-covered department must complete an annual training regimen.

Further, County Counsel has provided departments with descriptions of the means by which information can be shared among departments, and collaborates with department staff to resolve such concerns whenever they are raised with County Counsel.

County Counsel indicates that, for HIPAA purposes, the County has structured its HIPAA program so that DMH, DHS, and DPH are viewed as a single entity. Consequently, HIPAA rarely presents a barrier to the sharing of health information by these departments. Further, HIPAA does not inhibit the sharing of information for treatment purposes, making referrals, nor for coordination of care. Neither is HIPAA a barrier to community education about abused children's signs and symptoms, nor to reporting child abuse or neglect. Indeed, one of the broadest HIPAA exceptions is for public health activities, which HIPAA construes fairly broadly. Health information that can be shared by one department with another department on paper can be shared by one department with another department electronically, so long as the transmission is secure; thus HIPAA should not be viewed as a barrier to the electronic sharing of information. Finally, the law allows DMH, DHS, and DPH to share information with DCFS and each other for the purposes of coordinating a child's care.

CORRECTIVE ACTION

Based on the representations made by department presenters at the BRC meeting, there appears to be an unfortunate misunderstanding concerning HIPAA. Although it is a complex federal regulation, it is neither a barrier nor an impediment to the provision of health care, and it does not apply to DCFS. County Counsel has worked with the departments on many strategies to overcome the law's perceived barriers, but it appears that more education may be needed.

Moreover, the use of multi-disciplinary teams (MDTs), comprised of personnel from the different departments, affords very wide latitude for sharing otherwise confidential information with DCFS and others, provided the information is relevant to the prevention, identification, management, or treatment of child abuse or the provision of child welfare services. County Counsel recently prepared a memo to DCFS and DMH regarding MDTs (Attachment I), for distribution to contractors and others to encourage the use of MDTs as a means of information sharing.

Each Supervisor
October 17, 2013
Page 4

Finally, attached is a summary of the communication methods between DMH and DCFS concerning DCFS-involved children (Attachment II). Although DMH's legacy information system does not currently include an electronic medical record, and is thus not directly linked to other departments at this time, electronic linkage is planned following implementation of the new DMH electronic health record information system beginning in January 2014.

The CEO will collaborate as needed with County Counsel and the affected departments to arrange for additional education, encourage the use of MDTs when appropriate, promote electronic linkage between departments' information systems, and disseminate information sharing methods to key departmental personnel.

If you have any questions or require additional information, please contact me, or your staff may contact Gregory Polk at (213) 974-1160 or via e-mail to gpolk@ceo.lacounty.gov.

WTF:GP
MLM:JJS:bjs

Attachments

c: Executive Office, Board of Supervisors
 County Counsel
 Blue Ribbon Commission on Child Protection
 Children and Family Services
 Health Services
 Mental Health
 Public Health

101713_HMHS_MBS_DMH DCFS Communication



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September 25, 2012

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Re: Multi-Disciplinary Personnel Teams

Dear Mr. Nichols:

On September 20, 2012, you asked this office to prepare a summary of the laws surrounding multi-disciplinary personnel teams ("MDTs"). Below is a brief summary of how and when MDTs may be formed and what information may be shared in those MDT meetings. If you require further assistance, please do not hesitate to contact me.

Three-Person MDTs

Welfare and Institutions Code¹ section 18951(d) defines a MDT as "any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect."

The statute provides a non-exhaustive list of individuals who automatically meet the MDT membership criteria:

- Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.
- Police officers or other law enforcement agents.
- Medical personnel with sufficient training to provide health services.

¹ All references are to the Welfare and Institutions Code, unless otherwise noted.

- Social workers with experience or training in child abuse prevention, identification, management, or treatment.
- A public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.
- A CalWORKs case manager whose primary responsibility is to provide cross program case planning and coordination of CalWORKs and child welfare services for those mutual cases or families that may be eligible for CalWORKs services and that, with the informed written consent of the family, receive cross program case planning and coordination.

Section 830 permits members of an MDT engaged in the prevention, identification, management, or treatment of child abuse or neglect to disclose and exchange information and documents relating to any incident of child abuse or neglect, even if the information or documents are otherwise designated as confidential under State law if the member of the MDT with the information or document "reasonably believes it is generally relevant to the prevention, identification, management, or treatment of child abuse, or the provision of child welfare services."

Section 830 mandates that all discussions and document sharing within the MDT meeting remain confidential unless disclosure is required by law. Further disclosure beyond the MDT setting is subject to many rules and regulations, which should be dealt with on a case-by-case basis. If you have a particular disclosure issue, our office should be consulted. Additionally, testimony concerning any MDT meeting discussions is not admissible in any criminal, civil, or juvenile court proceeding.

Two-Person MDTs

Effective January 1, 2011, another form of MDTs is available within the first thirty days of a child abuse or neglect investigation for team members to investigate reports of child abuse or neglect (made pursuant to Penal Code section 11160, 11166, or 11166.05) or for the purpose of DCFS making a detention determination.

Pursuant to section 18961.7, two-person MDT members must meet the same qualifications as three-person MDT members, as described above. This statute also provides a non-exhaustive list of individuals who automatically meet the membership requirements, and it is identical to the first five items in the three-person MDT list above.

In addition, section 18961.7 permits provider agencies to be part of the two-person MDT. A provider agency is any governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. (Section 18961.7) The statute provides a non-exhaustive list of provider agencies that automatically meet the membership requirements: 1) Social services (e.g., DPSS); 2) Children's services (e.g., DCFS); 3) Health services; 4) Mental health services; 5) Probation; 6) Law enforcement; and, 7) Schools.

The same rules regarding further disclosure and testimony apply to two- and three-person MDTs.

Differences Between Two- and Three-Person MDTs

Two-person MDTs may be formed to share information or records only during the first thirty days after a child abuse or neglect report is made, unless there is documented good cause to extend it beyond thirty days.

Two-person MDTs are permitted to exchange information electronically, assuming there is adequate verification of the MDT members.

Two-person MDTs may not disclose information or records if they only relate to the provision of child welfare services (versus the prevention, identification, treatment or management of abuse or neglect).

The use of two-person MDTs requires protocols to be developed in the County which describe how and what information may be shared to ensure that confidential information is not improperly disclosed. The protocols should be provided to all participating agencies.

Finally, the two-person MDT statute is only operative through 2013.

Very truly yours,

JOHN F. KRATTLI
County Counsel

By 

KATHERINE M. BOWSER
Senior Deputy County Counsel
Social Services Division

KMB:md

COUNTY OF LOS ANGELES – CHIEF EXECUTIVE OFFICE
RECAP OF CHILD WELFARE INFORMATION SHARING BETWEEN THE
DEPARTMENTS OF MENTAL HEALTH AND CHILDREN AND FAMILY SERVICES
OCTOBER 2013

In response to the County's settlement agreement in Katie A. (2003), the Department of Children and Family Services (DCFS) and the Department of Mental Health (DMH) have worked together to develop protocols to collect data describing the mental health services being provided to children with open DCFS cases. These protocols are consistent with a memorandum of understanding related to disclosures of health and mental health information to and from County departments which have custody of minors, established in 2007 by DMH, DCFS, the Department of Health Services, and the Probation Department.

The Data Matching Process

One of the important early events that supported this effort was the issuance of a Court Order by Federal District Court Judge Howard Matz (2007) allowing the two departments to share client information for the purposes of client matching. Since that time, the departments have worked together to develop a data matching protocol and process that is not only sophisticated, reliable and protective of client confidentiality but also can be operationalized timely on an ongoing basis. The Departments have worked collaboratively to create this process, all the while including County Counsel from both departments, Quality Assurance, HIPAA Privacy, Security, Chief Information Office Bureau (CIOB), Child Welfare Division (CWD), Bureau of Information Services (BIS) and DCFS' Child Welfare Mental Health Services Division.

The matching process is performed by DCFS' BIS and DMH's CIOB divisions. A match of DMH client records is conducted on a weekly basis and is securely transmitted via DMH's Enhanced File Transfer (EFT) where then DCFS' BIS downloads and matches the data using a variety of personal identifiers, such as name, date of birth, social security number, etc. This matching process includes both hard and fuzzy matching elements as part of the matching algorithm.

Sharing of Mental Health Information with DCFS Social Workers

In April 2012, the Directors of the two departments completed a joint memorandum announcing the implementation of the shared protocol that would provide DCFS Child Social Workers (CSWs) and their supervisors with up-to-date mental health service information for the clients on their current caseloads for the purposes of coordination of care. From the weekly match, each CSW and their supervisors are sent an email alert notifying them of the clients on their caseloads who are currently receiving mental health services along with the name and contact information for the mental health provider. A hyperlink also directs them to the more complete mental health history for each matched client in the DMH Information System (IS).

Sharing of Child Welfare Information with Mental Health Providers

DMH and DCFS are currently planning a similar process to share basic child welfare information with mental health providers. DMH's CWD and CIOB are working on creating a weekly unique DCFS-DMH client list for each provider. This list will allow each agency to be aware of the children on their caseloads that have currently open child welfare cases and will provide them with the names of the CSW and their supervisor as well as their contact information. This is yet another effort to promote the coordination of child welfare and mental health services between the two departments.

Source: Department of Mental Health Child Welfare Division